

AMENDED IN SENATE MAY 15, 2003

SENATE BILL

No. 805

Introduced by Senator Escutia

February 21, 2003

An act to amend Sections ~~26505 and 26506~~ of 2623, 26505, 26506, 26525, 26534, 26553, 26558, 26559, 26563, 26567, 26568, 26568.1, 26576, 26579, 26601, and 26650 of, to amend the heading of Division 17 (commencing with Section 26500) of, and to add Sections 26513, 26514, 26515, 26516, and 26580.2 to, the Public Resources Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 805, as amended, Escutia. ~~Geologic hazards~~ *Hazardous substances: geologic and environmental hazard abatement districts.*

Under existing law, a geologic hazard abatement district may be formed pursuant to specified provisions for the purpose of prevention, mitigation, abatement, or control of a geologic hazard, as defined, *or mitigation or abatement of structural hazards that are partly or wholly caused by geologic hazards.*

This bill would revise the definition of "improvement," for ~~those~~ purposes of a district, to include services with respect to remedial action ~~for the cleanup~~ or the removal of a hazardous substance.

This bill would change the name of geologic hazard abatement districts to geologic and environmental hazard abatement districts, *and also authorize those districts to be formed for the purposes of remedial action or removal of a hazardous substance released or threatened to be released into the environment.*

The bill would require a district formed for purposes related to hazardous substances to have a remedial action plan, and would specify

requirements and restrictions with respect to a district formed for those purposes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 2623 of the Public Resources Code is*
2 *amended to read:*

3 2623. (a) The approval of a project by a city or county shall
4 be in accordance with policies and criteria established by the State
5 Mining and Geology Board and the findings of the State Geologist.
6 In the development of those policies and criteria, the State Mining
7 and Geology Board shall seek the comment and advice of affected
8 cities, counties, and state agencies. Cities and counties shall
9 require, prior to the approval of a project, a geologic report
10 defining and delineating any hazard of surface fault rupture. If the
11 city or county finds that no undue hazard of that kind exists, the
12 geologic report on the hazard may be waived, with the approval of
13 the State Geologist.

14 (b) After a report has been approved or a waiver granted,
15 subsequent geologic reports ~~shall~~ may not be required, provided
16 that new geologic data warranting further investigations is not
17 recorded.

18 (c) The preparation of geologic reports that are required
19 pursuant to this section for multiple projects may be undertaken by
20 a geologic and environmental hazard abatement district.

21 SEC. 2. *The heading of Division 17 (commencing with Section*
22 *26500) of the Public Resources Code is amended to read:*

23

24 DIVISION 17. GEOLOGIC AND ENVIRONMENTAL
25 HAZARD ABATEMENT DISTRICTS

26

27 SEC. 3. *Section 26505 of the Public Resources Code is*
28 *amended to read:*

29 26505. “Improvement” means an activity that is necessary or
30 incidental to the prevention, mitigation, abatement, or control of
31 a geologic hazard, including, but not limited to, all of the
32 following:

33 (a) Acquisition of property or any interest therein.



(b) Construction.

(c) Maintenance, repair, or operation of any improvement.

(d) Preparation of geologic reports required pursuant to Section 2623 for multiple projects within an earthquake fault zone or zones.

~~(e) (1) Services with respect to remedial action for the cleanup~~
Services with respect to remedial action or removal of a hazardous substance released or threatened to be released into the environment.

~~(2) For purposes of this subdivision, the following definitions apply:~~

~~(A) “Remedial action” has the same meaning as set forth in Section 25322 of the Health and Safety Code.~~

~~(B) “Removal” has the same meaning as set forth in Section 25323 of the Health and Safety Code.~~

~~(C) “Hazardous substance” has the same meaning as set forth in Section 25281 of the Health and Safety Code.~~

(f) Issuance and servicing of bonds, notes, or debentures issued to finance the costs of the improvements specified in subdivisions (a), (b), (c), (d), and (e).

~~SEC. 2.—~~

SEC. 4. Section 26506 of the Public Resources Code is amended to read:

26506. “District” means a geologic and environmental hazard abatement district created pursuant to this division.

~~(b) On and after January 1, 2004, “geologic hazard abatement district” means “geologic and environmental hazard abatement district.”~~

SEC. 5. Section 26513 is added to the Public Resources Code, to read:

26513. “Remedial action” has the same meaning as set forth in Section 25322 of the Health and Safety Code.

SEC. 6. Section 26514 is added to the Public Resources Code, to read:

26514. “Remedial action plan” means a remedial action plan prepared pursuant to Section 25356.1 of the Health and Safety Code.

SEC. 7. Section 26515 is added to the Public Resources Code, to read:

1 26515. *“Removal” has the same meaning as set forth in*
2 *Section 25323 of the Health and Safety Code.*

3 SEC. 8. *Section 26516 is added to the Public Resources Code,*
4 *to read:*

5 26516. *“Hazardous substance” has the same meaning as set*
6 *forth in Section 25281 of the Health and Safety Code.*

7 SEC. 9. *Section 26525 of the Public Resources Code is*
8 *amended to read:*

9 26525. A geologic and environmental hazard abatement
10 district may be formed pursuant to this division for the following
11 purposes:

12 (a) Prevention, mitigation, abatement, or control of a geologic
13 hazard.

14 (b) Mitigation or abatement of structural hazards that are partly
15 or wholly caused by geologic hazards.

16 (c) Remedial action or removal of a hazardous substance
17 released or threatened to be released into the environment.

18 SEC. 10. *Section 26534 of the Public Resources Code is*
19 *amended to read:*

20 26534. All lands included within a district for purposes
21 authorized pursuant to subdivision (a) or (b) of Section 26525
22 shall be specially benefitted by construction proposed in a plan of
23 control approved by the legislative body. *All lands included within*
24 *a district for purposes authorized pursuant to subdivision (c) of*
25 *Section 26525 shall be specially benefitted by construction*
26 *proposed in a remedial action plan approved by the legislative*
27 *body.*

28 SEC. 11. *Section 26553 of the Public Resources Code is*
29 *amended to read:*

30 26553. A plan of control shall be attached to the petition if the
31 petition is submitted for purposes authorized pursuant to
32 subdivision (a) or (b) of Section 26525. A remedial action plan
33 shall be attached to the petition if the petition is submitted for
34 purposes authorized pursuant to subdivision (c) of Section 26525.

35 SEC. 12. *Section 26558 of the Public Resources Code is*
36 *amended to read:*

37 26558. A resolution of the legislative body initiating
38 proceedings for the formation of a district shall contain
39 substantially the following:



1 (a) A statement that the resolution is made pursuant to this
2 division.

3 (b) A statement that the legislative body has been presented
4 with and has reviewed a plan of control; *or remedial action plan,*
5 *or both,* and has determined that the health, safety, and welfare
6 require formation of a district.

7 (c) The setting of a public hearing on ~~such~~ *that* determination
8 and directing that notice be mailed to all owners of real property
9 included within the proposed district.

10 *SEC. 13. Section 26559 of the Public Resources Code is*
11 *amended to read:*

12 26559. ~~All~~ *Except for an activity relating to a remedial action*
13 *or removal of a hazardous substance released or threatened to be*
14 *released into the environment, all other* activities of a local agency
15 taken pursuant to this division for the formation of a district or the
16 annexation of territory thereto are specific actions necessary to
17 prevent or mitigate an emergency within the meaning of paragraph
18 (4) of subdivision (b) of Section 21080.

19 *SEC. 14. Section 26563 of the Public Resources Code is*
20 *amended to read:*

21 26563. The notice shall set forth the time, date, and place of
22 the hearing, briefly describe the purpose ~~thereof~~ *of the hearing,*
23 and indicate where the plan of control *or remedial action plan, or*
24 *both,* may be reviewed or duplicated, at a cost not to exceed the
25 cost of duplication. The notice shall also set forth the address
26 where objections to the proposed formation may be mailed or
27 otherwise delivered up to and including the time of the hearing.

28 *SEC. 15. Section 26567 of the Public Resources Code is*
29 *amended to read:*

30 26567. At the close of the hearing or within 60 days thereafter,
31 the legislative body may proceed by resolution to order the
32 formation of the proposed district. The resolution shall appoint
33 five owners of real property within the district to the initial board
34 of directors for terms not to exceed four years, or, as an alternative
35 to the appointment of five owners of real property within the
36 district, the legislative body may appoint itself to act as the board
37 of directors. If the legislative body appoints itself as the board of
38 directors, Section 26583 ~~shall~~ *may not* apply. If owners of real
39 property within the district are appointed as the initial board of
40 directors, then following the initial term, the board of directors

1 shall be elected as provided by Section 26583. *If the formation is*
2 *for purposes authorized pursuant to subdivision (c) of Section*
3 *26525, the resolution shall specify the maximum proportion of*
4 *total funds of the district that may be used for purposes authorized*
5 *pursuant to that subdivision.* This section shall apply to all districts
6 formed on or after January 1, 1980.

7 SEC. 16. *Section 26568 of the Public Resources Code is*
8 *amended to read:*

9 26568. The procedures for initiation of proceedings, notice,
10 and hearing and formation of a district under this chapter *for*
11 *purposes authorized pursuant to subdivision (a) or (b) of Section*
12 *26525 shall be alternative to the procedures in Articles 3*
13 *(commencing with Section 26550) and 4 (commencing with*
14 *Section 26561) of Chapter 2. Chapter 3 (commencing with Section*
15 *26570) does not apply to districts formed under this chapter.*

16 SEC. 17. *Section 26568.1 of the Public Resources Code is*
17 *amended to read:*

18 26568.1. Proceedings for the formation of a district for any of
19 the work specified in *subdivision (a) or (b) of Section 26525 may*
20 *be initiated by a petition signed by two-thirds of the property*
21 *owners of the real property to be included within the proposed*
22 *district.*

23 SEC. 18. *Section 26576 of the Public Resources Code is*
24 *amended to read:*

25 26576. ~~Within~~ *(a) Except as specified in subdivision (b),*
26 *within the territorial limits of the district, or for the purposes set*
27 *forth in this division, a district may acquire real property or any*
28 *interest therein by eminent domain.*

29 *(b) A district may not acquire by eminent domain real property*
30 *or an interest therein for the purposes authorized pursuant to*
31 *subdivision (c) of Section 26525.*

32 SEC. 19. *Section 26579 of the Public Resources Code is*
33 *amended to read:*

34 26579. The district may enter into contracts and agreements
35 with the United States, any state or local unit of government,
36 public agency, including any other geologic *and environmental*
37 hazard abatement district or public district, private organization,
38 or any person in furtherance of the purposes of the division.

39 SEC. 20. *Section 26580.2 is added to the Public Resources*
40 *Code, to read:*

1 26580.2. (a) *The legislative body shall cause to be prepared*
2 *a remedial action plan prior to the initiation of proceedings for the*
3 *formation of a district for purposes authorized pursuant to*
4 *subdivision (c) of Section 26525.*

5 (b) *The legislative body shall provide the State Department of*
6 *Health Services, the Department of Toxic Substances Control, and*
7 *local health and building departments with notification of all*
8 *cleanup activities pursuant to this division at least 90 days prior*
9 *to commencement of the improvement.*

10 (c) *All responsible parties as defined by subdivision (a) of*
11 *Section 25323.5 of the Health and Safety Code shall be liable to*
12 *the district for the costs to be incurred for the remedial action or*
13 *removal of a hazardous substance released or threatened to be*
14 *released into the environment prior to commencement of the*
15 *improvement.*

16 (d) *This section is intended to provide local agencies an*
17 *alternative method of financing the cost of remedial action or*
18 *removal of a hazardous substance. A district may finance the*
19 *services relating to remedial action or removal of a hazardous*
20 *substance only to the extent that these services are in addition to*
21 *those provided in the territory of the district before the district was*
22 *created. The additional services may not supplant services already*
23 *available within that territory when the district was created.*

24 (e) *Actions by the local agency and district for a remedial*
25 *action or removal of a hazardous substance pursuant to this*
26 *division may not affect or limit the provisions of any other law*
27 *establishing the liability of any person for, or otherwise regulating,*
28 *the generation, transportation, storage, treatment, or disposal of*
29 *hazardous substances. The scope and standard of liability for any*
30 *costs recoverable pursuant to this section shall be the scope and*
31 *standard of liability set forth in the Comprehensive Environmental*
32 *Response, Compensation, and Liability Act of 1980, as amended*
33 *(42 U.S.C. Sec. 6901 et seq.) or any other provision of state or*
34 *federal law establishing responsibility for cleanup of hazardous*
35 *waste sites.*

36 (f) *Actions by the local agency and district for remedial action*
37 *or removal of a hazardous substance pursuant to this division may*
38 *not be construed as a limitation on the power of a district to act*
39 *under any other provision of law that regulates the generation,*

1 *transportation, storage, treatment, or disposal of hazardous*
2 *substances.*

3 *(g) If the district is formed for the purposes authorized pursuant*
4 *to subdivision (a) or (b) of Section 26525, the district shall comply*
5 *with this section and other requirements of this division prior to*
6 *assuming the purposes authorized pursuant to subdivision (c) of*
7 *Section 26525.*

8 *SEC. 21. Section 26601 of the Public Resources Code is*
9 *amended to read:*

10 *26601. ~~Improvement~~ Except for an improvement or activity*
11 *relating to a remedial action or removal of a hazardous substance*
12 *released or threatened to be released into the environment, an*
13 *improvement caused to be undertaken pursuant to this division,*
14 *and all activities in furtherance thereof or in connection therewith,*
15 *shall be deemed to be specific actions necessary to prevent or*
16 *mitigate an emergency within the meaning of paragraph (4) of*
17 *subdivision (b) of Section 21080.*

18 *SEC. 22. Section 26650 of the Public Resources Code is*
19 *amended to read:*

20 *26650. A district may levy and collect assessments pursuant*
21 *to this chapter to pay for the cost and expenses of the maintenance*
22 *and operation of any improvements acquired or constructed*
23 *pursuant to this division. An assessment levied and collected for*
24 *purposes authorized pursuant to subdivision (a) or (b) of Section*
25 *26525 may be expended to pay only for the cost and expense of the*
26 *maintenance and operation of an improvement acquired or*
27 *constructed for a purpose authorized pursuant to those*
28 *subdivisions. An assessment levied and collected for a purpose*
29 *authorized pursuant to subdivision (c) of Section 26525 may be*
30 *expended to pay only for the cost and expense of the maintenance*
31 *and operation of an improvement acquired or constructed for a*
32 *purpose authorized pursuant to that subdivision.*

